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Informal Preparatory Meeting of the Ad Hoc Committee for the Negotiation of a Convention against Corruption
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Proposals and contributions received from Governments

Venezuela: proposals for consideration at the Informal Preparatory Meeting of the Ad Hoc Committee for the Negotiation of a Convention against Corruption

1. For several years, the highest importance has been attached by Venezuela to the problem of corruption, because the Venezuelan people has been affected by this scourge throughout its democratic history. It was for this reason that Venezuela proposed to the Permanent Council of the Organization of American States (OAS) a draft for an inter-American convention against corruption. Venezuela played an active role in the conclusion of the convention, and many of the proposals contained in its draft were included in the final document (see E/1996/99).

2. Now that the possibility of the adoption of an instrument of a universal nature is emerging in response to the concerns of many countries, Venezuela wishes to reaffirm its view that it is essential that a legal instrument of a universal nature should be adopted that, by taking into account the existing instruments and the experience provided by them, can contribute effectively to the eradication of the phenomenon of corruption.

3. In this context, the task of combating corruption is being taken up by the supreme audit institutions of the world in the framework of globalization. In 2000, a Euro-American conference was held in Madrid sponsored by the Court of Audit of Spain; the conference brought together heads of supreme audit institutions of countries of Europe, Latin America and the Caribbean, and the main topic was what such institutions could do within the different integration processes to combat impunity, fraud and the encouragement of negligence.

4. In Brazil in November 2000 and in Panama in August 2001, the tenth and eleventh sessions of the General Assembly of the Organization of Latin American and Caribbean Supreme Audit Institutions (OLACEFS) were held. At both sessions, attention was drawn to the need to promote effective mechanisms to fight corruption. To that end, a meeting was held in Washington, D.C., in October 2001 at which OLACEFS proposed to the Secretary-General of OAS the holding of a

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meeting that would bring together the secretariat of OAS, the Presidents of the Supreme Courts of Latin America and the Caribbean, the heads of the constitutional authorities for legal action by the State and the heads of the supreme audit institutions belonging to OLACEFS with a view to reinforcing efforts to promote administrative integrity and ethics within the context of the Inter-American Convention against Corruption.

5. Similarly, at the Seventeenth International Congress of Supreme Audit Institutions in Seoul, it was agreed that each supreme audit institution should promote, within its country, legislation against corruption and money-laundering.

6. Along the same lines, a study was conducted in the countries of the Andean region under the auspices of the Andean Development Corporation (CAF), OLACEFS and the supreme audit institutions of Bolivia, Colombia, Ecuador, Peru and Venezuela to survey the situation regarding corruption in the region over the past 10 years. That study brought to light the weakening of the ethical and moral values of society resulting from the high levels of corruption and impunity, the concentration of power and illegitimate means of obtaining access to power and remaining in power, the inadequacy of the operational and budgetary capacities of control institutions, the failure to meet basic needs (that is to say, the deterioration in living conditions) and, lastly, the lack of participation by the general public in denouncing irregular acts.

7. On the other hand, as a result of increasing access to information on public management, there has also been greater transparency in recent years, bringing to light acts of corruption. That transparency is reflected in the spreading of information on the activities of the public administration – including acts detrimental to community assets – through the mass media and by electronic means and through the participation of the general public, among other mechanisms.

8. Indicators and technical elements (such as standards or units of measurement) and data for assessing the degree of corruption in our societies in a quantitative way are inadequate, although attention should be drawn to the perception of the supreme audit institutions regarding the generalization of the phenomenon in all sectors, in new and diverse forms. In many cases, isolated, individual corruption has given way to systemic corruption on the part of groups organized for that purpose.

9. The phenomenon of corruption undoubtedly has serious implications in three areas:

(a) *In the economic area*. The use of the community's funds for the benefit of a few instead of for the common good has generated the poverty afflicting our countries and prevented their economic development. Diverting and misspending resources through acts of corruption prevents the resources from being used for the improvement of health and housing and the promotion of employment, product quality and price equilibrium – in short, in all the areas that have a direct effect on the quality of life of the people;

(b) *In the social area*. Impunity has favoured corruption and attacks political, cultural and intellectual values, affecting the coexistence of all citizens on an egalitarian basis. It is also important to stress that corruption does not exist exclusively in the public sector; it is also present in the private sector of society, at both the national and the international level. Where there is a corrupt official, there is usually also a corrupting entrepreneur or citizen.

(c) *In the political area*. Corruption conspires against the democratic system, discrediting state activity, with consequent detriment to or undermining of institutions, it creates dissatisfaction and a loss of credibility and it impedes sound and effective political management.

10. Venezuela therefore reaffirms the need for an effective, universal legal instrument and submits the proposals below.

11. With regard to definitions, Venezuela thinks it appropriate to stress that the convention should indicate clearly what is meant by the terms "acts of corruption" and "persons committing such acts" and it should define what is understood by "funds derived from acts of corruption" and "proceeds of crime". This proposal was submitted by the Venezuelan delegation when the Inter-American Convention against Corruption was being negotiated and after intensive discussions it proved possible to take it up only in an article entitled "Progressive development", under which the parties undertake to legislate on the matter in the future and to consider other types of action that could be regarded as "corrupt".

12. Through international cooperation, a system of international intelligence should be established that, respecting the sovereignty of the States parties, would provide a means of supporting their activities directed towards punishing corrupt persons, identifying and quantifying acts of corruption, bringing about the repatriation of ill-gotten gains, utilizing technological advances in the handling of data and establishing effective mechanisms to prevent or sanction corruption. To that end, the convention should recommend strategies and plans of action at both the national and the international level.

13. The convention should also provide for the establishment of a coordinating agency that would be responsible for designing and implementing educational programmes to promote the moral values of integrity and public service, establishing an information system within the framework of the United Nations and continually monitoring changes in the public and private sectors brought about by efficient operational plans for combating corruption.

14. Bank secrecy should be eliminated, so that protective legislation in those countries which recognize that principle does not convert them into tax havens in which capital derived from acts of corruption is laundered and which are sometimes used for the commission of other crimes that are already the subject of international action, such as drug trafficking, the financing of terrorism and political and financial corruption. If bank secrecy did not exist, monitoring of the vast fortunes derived from acts of corruption would be much easier. If bank secrecy cannot be eradicated, the convention should at least adjust the principle to international requirements so that it takes into account the needs of countries legitimately investigating specific acts of corruption.

15. The laundering of money or of assets has become a worldwide threat, endangering the security and stability of the financial system, affecting trade and even undermining government structures. The convention must urge States parties to legislate on the matter and to establish money-laundering as an offence under their domestic law, as well as to set up the necessary legal and administrative mechanisms for identifying, locating and seizing assets derived from offences against the public property of States.

16. The convention should include sanctions applicable to corporate bodies involved in acts of corruption; such sanctions could include identification of the

existence of a risk of corruption on the basis of the frequency with which such entities are involved in acts of corruption; publication and circulation at the international level of the names of entities so identified; and requirements for additional guarantees (security) to permit them to participate in commercial processes and their exclusion, for a period of up to five years, from the register of contractors and suppliers in those countries where such a register exists.

17. The responsibilities of international police agencies should include that of assisting supreme audit institutions in their investigations.

18. Lastly, greater participation is needed by organized civil society in all the States parties in order to bring about a united effort through non-governmental organizations, professional associations, groups defending human rights and any other groups that, through active participation, could have an influence on the decisions of States.